

Filed 3/24/15 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2015 ND 67

Randy Holkesvig,

Plaintiff and Appellant

v.

Bob Rost, Grand Forks County Sheriff,
in his individual and official capacity,
Linda Funkhouser, Grand Forks Sheriff's
Office Support Assistant, in her individual
and official capacity,

Defendants and Appellees

No. 20140399

Appeal from the District Court of Grand Forks County, Northeast Central
Judicial District, the Honorable Allan L. Schmalenberger, Judge.

AFFIRMED.

Per Curiam.

Randy Holkesvig, self-represented, P.O. Box 82, Fargo, N.D. 58107-0082,
plaintiff and appellant; on brief.

Daniel L. Gaustad and Joseph E. Quinn, P.O. Box 5758, Grand Forks, N.D.
58206-5758, for defendants and appellees; on brief.

Holkesvig v. Rost

No. 20140399

Per Curiam.

[¶1] Randy Holkesvig appeals from a judgment dismissing without prejudice his complaint against Grand Forks County Sheriff Bob Rost and Rost's office support assistant, Linda Funkhouser. Holkesvig's lengthy complaint ostensibly alleges Rost and Funkhouser acted corruptly, illegally, and in a retaliatory manner in dealing with him and conspired with others to cover up their actions. Holkesvig's claims in this case are part of the aftermath of his guilty plea to stalking in 2008, which has resulted in numerous reported decisions in this Court involving unsuccessful litigation against multiple parties, including the complaining witness, two prosecutors, a deputy sheriff, and court employees. See Holkesvig v. Hutton, 2015 ND 48; Holkesvig v. Grove, 2014 ND 57, 844 N.W.2d 557; Holkesvig v. Moore, 2013 ND 2, 828 N.W.2d 546; Holkesvig v. State, 2013 ND 1, 828 N.W.2d 546; Holkesvig v. Welte, 2012 ND 236, 823 N.W.2d 786; Holkesvig v. Grove, 2012 ND 208, 823 N.W.2d 786; Holkesvig v. Welte, 2012 ND 142, 818 N.W.2d 760; Holkesvig v. Welte, 2012 ND 14, 809 N.W.2d 323; Holkesvig v. Moore, 2011 ND 199, 806 N.W.2d 438; Holkesvig v. Welte, 2011 ND 161, 801 N.W.2d 712.

[¶2] Holkesvig moved to dismiss his complaint without prejudice, claiming he would seek to file it in federal court. The district court granted his motion to dismiss without prejudice on the condition he not refile the complaint in any North Dakota state district court. Although a judgment dismissing an action without prejudice is ordinarily not appealable, this dismissal is conditioned on Holkesvig's not refiling the complaint in any North Dakota state court. We conclude the judgment has the practical effect of terminating his action in state court and is appealable. See Sanderson v. Walsh County, 2006 ND 83, ¶¶ 6-9, 712 N.W.2d 842.

[¶3] We conclude Holkesvig's appeal is frivolous and completely without merit. We affirm the judgment and we order Holkesvig to pay \$2,604 in attorney fees and to pay double costs.

[¶4] Rost and Funkhouser also seek an order limiting Holkesvig's ability to continue to file and serve frivolous and meritless lawsuits and appeals without express leave of this Court. We have affirmed district court orders prohibiting Holkesvig from filing further lawsuits arising out of his underlying stalking conviction. See

Holkesvig, 2012 ND 142, ¶¶ 11-16, 818 N.W.2d 760. In Federal Land Bank v. Ziebarth, 520 N.W.2d 51, 53, 55-59 (N.D. 1994), this Court affirmed an order limiting a litigious party from bringing further actions related to the subject of her endless series of vexatious and meritless litigation without prior court approval. Holkesvig has engaged in a similar extensive and relentless pattern of vexatious and meritless litigation against numerous parties stemming from alleged wrongdoing in the criminal investigation and his prosecution for stalking and he has been previously sanctioned for bringing frivolous actions. See Holkesvig, 2014 ND 57, ¶¶ 1, 21, 844 N.W.2d 557; Holkesvig, 2012 ND 236, ¶ 1, 823 N.W.2d 786; Holkesvig, 2012 ND 208, ¶ 3, 823 N.W.2d 786; Holkesvig, 2011 ND 161, ¶ 13, 801 N.W.2d 712. In view of Holkesvig's continued and clear pattern of bringing frivolous and repetitious litigation we order that he may not commence any actions in North Dakota state court without prior approval of the presiding district court judge of the Northeast Central Judicial District, or his designee. Actions involving the subject matter of or the defendants in his cases listed above may not be approved. Repetitive or frivolous actions may not be approved.

[¶5] We affirm the judgment dismissing Holkesvig's action.

[¶6] Gerald W. VandeWalle, C.J.
Dale V. Sandstrom
Daniel J. Crothers
Lisa Fair McEvers
Carol Ronning Kapsner